

	<b>Effective Date:</b>		09-02-2011
	<b>Policy #:</b>		H-17
	<b>Supersedes:</b>		
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## **PURPOSE**

To establish who can act on behalf of the individual for purposes of authorizing uses and disclosures and granting the individual rights afforded by these Policies.

## **DEFINITIONS**

Refer to HIPAA Policies and Procedures Definition Glossary

## **POLICY**

LARA employees must, except in the limited circumstances set forth in this Policy, treat a personal representative as the patient for purposes of authorizing uses and disclosures and effectuating the patient rights afforded by these Policies.

*NOTE: The personal representative must only be treated as the individual patient to the extent that the protected health information is relevant to matters on which the personal representative is authorized to represent the patient.*

If a reasonable belief exists that the personal representative has **abused or neglected** the individual patient, or that treating the personal representative as the patient could endanger the patient, and believe it is not in the patient's best interest to treat the person as the personal representative, then LARA personnel are not required to do so.

**Adults** -The following can act as a personal representative of an adult:

- **Durable Power of Attorney for Health Care.** A durable power of attorney is a document prepared and signed by an individual that designates another as his/her agent to perform certain acts on behalf of the individual. A valid durable power of attorney must be in writing and state the powers the individual has granted to the representative.
- **Court Appointed Guardian.** This is a person appointed by the court in a court order who legally has authority over the care and management of the person, estate, or both, of a patient who cannot act for him/herself. This order may place

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certain limitations on the legal activities of the guardian.

- **Family Member, Other Relative, or Close Personal Friend (or any other person identified by the beneficiary).** Disclosure is permitted when the information is relevant to the person's involvement with the individual's care or payment for health care services, and the individual has the opportunity to agree or object to the disclosure.

## Minors

For minor patients who are under the age 18 and who do not fall within an exception recognized by the laws of the State of Michigan with regard to emancipated minors, either parent, the legal guardian or the legal custodian appointed by a court may act as a minor's personal representative.

*NOTE: Under the laws of the State of Michigan, persons under the age of 18 are permitted to consent to treatment for mental health disorders, substance abuse, sexually transmitted diseases, HIV/AIDS, and pregnancy related treatment without parental consent or notification.*

## PROCEDURE

<b><i>Responsibility</i></b>	<b><i>Action</i></b>
<i>Review Authorizing Document</i>	Review the document presented to check whether: <ul style="list-style-type: none"> <li>• The time period stated has not expired,</li> <li>• The representative's authority is not limited in scope,</li> <li>• Verify the representative is the person stated in the document.</li> </ul>

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<i>Document Retention</i>	Retain a copy of the document for verification of the representative's authority for six years.
<i>Family Members, Other Relatives, Close Personal Friends, (or any other person identified by the individual).</i>	<p>Obtain from the individual in writing or verbally his or her agreement or objection to sharing PHI with the family member, other relative, close personal friend, or other person identified by the individual.</p> <p>If the individual is unable to agree or object, due to unavailability, incapacity, or emergency, the LARA employee may in the exercise of professional judgment, determine whether the disclosure is in the best interests of the individual and, if so, disclose <i>only</i> the PHI that is directly relevant to the representative's involvement with the individual's health care.</p>
<i>Suspected Neglect or Abuse</i>	The LARA employee is not required to disclose PHI to an individual's representative if abuse or neglect is suspected.

## **REFERENCES/FORMS**

[45 CFR §164.502\(g\), §164.524, §164.528, §164.510\(b\), §164.512\(c\)\(2\)\(ii\)](#)